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**Case No. 2:08-cv-02310-PWG**

<sup>1</sup> Plaintiff's Complaint cannot be read as stating a Fourth Amendment excessive force claim against either Defendant Hayes or Defendant Green.

The court **EXPRESSLY FINDS** as follows:

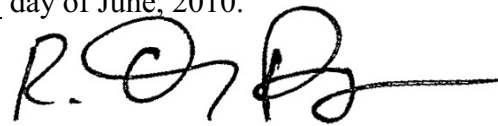
1. There are no genuine issues of material fact as to Plaintiff's Fourteenth Amendment substantive due process claim against the defendants. Therefore, Defendants Hayes, Greene, Hartley, Morgan, and Neal's motion for summary judgment is due to be granted and Plaintiff's Fourteenth Amendment substantive due process claim against these defendants is due to be dismissed with prejudice;

2. There are genuine issues of material fact as to Plaintiff's Fourth Amendment excessive force claim against Defendants Hartley, Morgan, and Neal. Therefore, their motion for summary judgment on this claim is due to be denied; and

3. Defendants Hartley, Morgan, and Neal's motion for summary judgment as to Plaintiff's Fourth Amendment excessive force claim on the basis of qualified immunity is due to be denied.

An appropriate order will be entered.

**DONE** and **ORDERED** this 16th day of June, 2010.

A handwritten signature in black ink, appearing to read 'R. David Proctor', written over a horizontal line.

**R. DAVID PROCTOR**  
UNITED STATES DISTRICT JUDGE